UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS DIVISION

ELIZABETH ANN MYERS,

      Plaintiff,

v.   3:16-cv-01382-NJR-SCW

ASCENT MORTGAGE RESOURCE
GROUP, LLC d/b/a MYRENTOOWN.COM
d/b/a RTOFIND.COM,

      Defendant.

MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT

NOW comes ELIZABETH ANN MYERS ("Plaintiff"), by and through her attorneys, Sulaiman Law Group, Ltd. ("Sulaiman"), and pursuant to Fed. R. Civ. P. 15(a)(2), bringing this Motion for Leave to File First Amended Complaint, and in support thereof, stating as follows:

1. On December 21, 2016, Plaintiff brought her Complaint by and through Sulaiman against ASCENT MORTGAGE RESOURCE GROUP, LLC ("Ascent") for violations of the Telephone Consumer Protection Act and the Illinois Consumer Fraud and Deceptive Business Practices Act.

2. Counsel for Ascent filed her appearance on January 19, 2017.

3. After consulting with Ascent's representatives, Sulaiman counsel discovered that although Plaintiff was being called by a company identifying itself as "My Rent To Own," this entity is not the same "Rent to Own" company that is owned by Ascent.

4. Upon being notified that Ascent may in fact be the wrong party, Sulaiman promptly discovered that the correct party that was contacting Plaintiff is Profinity, LLC.

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5. Plaintiff wishes to amend her Complaint to name Profinity, LLC as a defendant and dismiss Ascent without prejudice.

6. Pursuant to Fed. R. Civ. Pro. 15(a)(2), a Court should freely give a party leave to amend its pleading when justice requires.

7.   A plaintiff is entitled to amend the complaint once as a matter of right if it acts quickly enough and even after that time has expired, a court "should freely give leave to amend when justice requires so." *Independent Trust Corp. v. Stewart Information Services Corp.,* 665 F.3d 930, 943 (7th Cir. 2012).

8.   "Rule 15(a) declares that leave to amend 'shall be freely given when justice so requires'; this mandate is to be heeded. If the underlying facts or circumstances relied upon by a plaintiff may be a proper subject of relief, he ought to be afforded an opportunity to test his claim on the merits. In the absence of any apparent or declared reason--such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendment, futility of amendment, etc.--the leave sought should, as the rules require, be 'freely given.'" *Foman v. Davis*, 371 U.S. 178, 182 (1962).

9.   Here, no cause exists to deny Plaintiff's request as this information was only recently discovered and could not have been discovered prior to consulting with Ascent.

10. As a result, justice would be better served if Plaintiff is granted leave to amend her Complaint allowing her the opportunity to seek relief for injuries that were proximately caused by Profinity, LLC.

11. This is Plaintiff's first request to amend her Complaint.

12.   Plaintiff is prepared to file her Amended Complaint *instanter* and has attached a copy of the same to this Motion.

WHEREFORE, Plaintiff respectfully requests this Honorable Court to enter an order granting Plaintiff leave to file her Amended Complaint.

Dated: February 10, 2017   Respectfully submitted,

                                            s/ Nathan C. Volheim
                                            Nathan C. Volheim, Esq. #6302103
                                            Admitted in the Southern District of Illinois
                                            Sulaiman Law Group, Ltd.
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<u>CERTIFICATE OF SERVICE</u>

The undersigned, one of the attorneys for Plaintiff, certifies that on February 10, 2017, he caused a copy of the foregoing**, MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT**, to be served via CM/ECF:

<div align="center">

Sowers & Wolf
Attention: Ferne P. Wolf
fw@sowerswolf.com

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Respectfully submitted,

s/ Nathan C. Volheim
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